

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

BUBBA GANDY SEAFOOD X)	
MARKET, LLC, et al.,)	
)	
Plaintiffs,)	Case No. 3:24-cv-00382
)	
v.)	Judge Waverly D. Crenshaw, Jr.
)	Magistrate Judge Jeffery S. Frensley
KOJO ASANTE and ASANTE CAPITAL)	
INVESTMENTS, LLC,)	
)	
Defendants.)	

ORDER DENYING MOTION FOR ENTRY OF DEFAULT

Pending is Plaintiffs’ Motion for Default Judgment Against Defendant Asante Capital Investments, LLC, and Request for Hearing to Determine Damages pursuant to Federal Rule of Civil Procedure 55(a). (Doc. No. 22). For the following reasons, Plaintiffs’ Motion is **DENIED** without prejudice.

Plaintiffs’ Motion is styled as one for default judgment, but it seeks simultaneous entry of default pursuant to Federal Rule of Civil Procedure 55(a). A plaintiff must fulfill the procedural requirements of Federal Rule of Civil Procedure 55 and seek an entry of default pursuant to Rule 55(a) prior to seeking default judgment pursuant to Rule 55(b). *See* Fed. R. Civ. P. 55; *White v. Parker*, No. 1:11-CV-294-TRM-CHS, 2018 WL 1279545, at *3 (E.D. Tenn. Feb. 20, 2018). As a result, to the extent Plaintiffs seek default judgment and a hearing on damages, the request is premature and **DENIED** without prejudice.

With regard to entry of default, motions for entry of default must comply with the provisions of Local Rule 55.01 and be accompanied by an unsworn declaration under penalty of perjury under 28 U.S.C. § 1746 verifying, among other things, (i) proof of service and (ii) the

opposing party's failure to plead or otherwise defend. L.R. 55.01. Plaintiffs' Motion is procedurally defective because it does not include the required unsworn declaration. Accordingly, Plaintiffs' Motion, to the extent it seeks entry of default is **DENIED** without prejudice. Should Plaintiffs elect to refile a motion for entry of default, the Clerk invites Plaintiffs to explain in the declaration how Chris Bolinger qualifies as an individual authorized to accept service of process on behalf of the limited liability company pursuant to Federal Rule of Civil Procedure 4(h) or other applicable law. *See* (Doc. No. 14 at PageID # 117).

s/ Lynda M. Hill
Lynda M. Hill
Clerk of Court